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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,493	02/27/2002	Jacquelin A. Vantroostenberghe	Male Urinary System	4926

7590

03/05/2004

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EXAMINER

BOGART, MICHAEL G

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 03/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/085,493

Applicant(s)

VANTROOSTENBERGHE,
JACQUELIN A.

Examiner

Michael G. Bogart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

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DETAILED ACTION

Drawings

The drawings submitted February 27, 2002 are acceptable for examination purposes.

Formal drawings will be required when the application is allowed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Schneider (US 4,626,250).

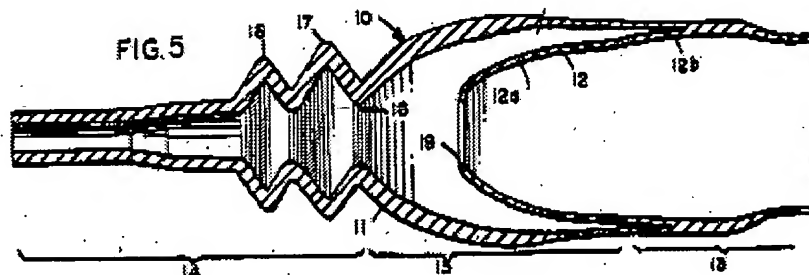
Schneider teaches a male urinary system comprising:

a penis/urinary collection interface unit (10), said penis/urinary collection interface unit (10) a primary receiver unit (12) for accommodating a male penis during urination, configured for juxtaposition to and temporary seating against the adjacent pubic area, and a secondary containment unit (15) in which said primary receiver unit (12) is at least partially nested with proximal margins (12b) of said secondary containment unit (15) and primary receiver (12) unit being fused to prevent fluid ingress or egress past the line of fusion (12b), said primary receiver unit (12) being positioned relative to said secondary containment unit (15) whereby a gap (20) is

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formed between the outer surface of said primary receiver unit (12) and the inner surface of said secondary receiver unit (15), said gap (20) extending at least from the distal end (12a) of said primary receiver unit (12) and the said line of fusion (12b) between said secondary containment unit (15) and said primary receiver unit (12), said primary receiver unit (12) opening (19) at its distal end (12b) into said secondary containment unit (15) near the distal end (16) of said secondary containment unit (15);

conduit means (14) attached to said distal end (16) of said secondary containment unit (15) for collecting urine flowing from said distal end (12b) of said primary receiving unit (12)(see Fig. 5, below).



Schneider therefore expressly teaches every element of the claimed invention except for a urine receptacle.

The device taught by Schneider is clearly designed to be emptied into something. Similar devices in the art provide receptacles to collect urine, as discussed by the reference (col. 1, line 61). At the time of the invention, it would have been obvious to one of ordinary skill in the art to provide a suitable receptacle with the device as taught by Schneider in order to provide a means of collecting urine expelled from the device.

Response to Arguments

Applicant's arguments filed February 23, 2004 have been fully considered but they are not persuasive.

Applicants assert that Schneider's disclosure of an annular space is a neck section which is distinct from a secondary receiver. This argument is not persuasive because during voiding events while in use, the neck or receiver taught by Schneider receives and may be filled with urine until the urine is allowed to exit this portion via the drainage tube (14)(See Fig. 21).

Applicant's further assert that this neck or secondary receiver portion is only created after it has been attached to a penis, like a condom. This assertion is not persuasive because there is no recited physical structure in the claimed invention to distinguish it over a device that attaches to a penis in this manner.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the claimed device allows a prone patient a degree of control, that it alleviates worry from backwashing, there is nothing to attach to a penis, that it is constructed of a shape-retaining material) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

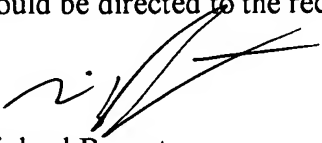
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bogart whose telephone number is (703) 605-1184. The examiner can normally be reached Monday-Friday.

In the event the examiner is not available, the examiner's supervisor, John Calvert may be reached at phone number (703) 305-1025. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 746-3380 for informal communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0858.



Michael Bogart
01 March 2004



JOHN J. CALVERT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700